



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART VIII

WAREHOUSES AND QUEEN'S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

94 Deficiency in warehoused goods.

- (1) . . . ^{F1}, this section applies where goods have been warehoused and, before they are lawfully removed from warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.
- (2) ^{F2}...
- (3) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may .
 - [^{F3}(a) require the occupier of the warehouse or the proprietor of the goods to pay immediately any duty, other than excise duty, chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of such duty paid in respect of the relevant goods;
 - (b) assess, as being excise duty due from the occupier of the warehouse or the proprietor of the goods, the excise duty chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of excise duty paid in respect of the relevant goods.]

[^{F4}(3A) Where the Commissioners make an assessment under subsection (3)(b) above they shall notify the person assessed or his representative accordingly.]

Status: Point in time view as at 06/04/2009.

Changes to legislation: Customs and Excise Management Act 1979, Section 94 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) If, on the written demand of an officer, the occupier of the warehouse or the proprietor of the goods refuses to pay any sum which he is required to pay under subsection [F5(3)(a)] above he shall in addition be liable on summary conviction to a penalty of double that sum.
- [F6(4A) If—
- (a) the occupier of the warehouse or the proprietor of the goods refuses to pay any amount of excise duty to which he has been assessed under subsection (3) (b) above, and
 - (b) the conditions set out in subsection (4B) below are fulfilled,
- he shall be liable on summary conviction to a penalty of double that amount.
- (4B) The conditions are that—
- [F7(a) the period of 30 days for accepting an offer of review under section 15C of the Finance Act 1994 or for appealing against the decision under section 16 of that Act has expired;]
 - (b) on any review under Chapter II of Part I of that Act the Commissioners’ decision (“the original decision”) in relation to the assessment has been confirmed (or treated as confirmed by virtue of [F8section 15F(8)] of that Act), or confirmed subject only to a reduction in the amount of duty due under the assessment; and
 - (c) [F9the final result of any appeal under section 16 of that Act, or of any further appeal,] is that the original decision has been confirmed, subject only to any reduction in the amount of duty due under the assessment; and “final result” means the result of the last of any such appeals, against which no appeal may be made (whether because of expiry of time or for any other reason).
- (4C) Where the amount of excise duty due under subsection (3)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (4A) above shall be a penalty of double the reduced amount.]
- (5) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of the customs and excise Acts.
- [F10(5A) In this section “the relevant goods” means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit.]
- [F11(6) The preceding provisions of this section so far as they have effect for-
- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
 - (b) determining the person on whom any liability to pay any such duty is to fall,
- shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section and the provisions of section 95 below.]

Textual Amendments

- F1** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#)
- F2** S. 94(2) repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), ss. 11, 139(6), [Sch. 8 para. 3](#), [Sch. 19 Pt. III](#)
- F3** S. 94(3)(a)(b) substituted for words in s. 94(3) (1.6.1997) by [1997 c. 16, s. 50\(2\)](#), [Sch. 6 para. 3\(2\)](#):
[S.I. 1997/1305, art. 2](#)

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- F4** S. 94(3A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 3**; S.I. 1997/1305, **art. 2**
- F5** Words in s. 94(4) substituted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4**; S.I. 1997/1305, **art. 2**
- F6** S. 94(4A)-(4C) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 3(5)**; S.I. 1997/1305, **art. 2**
- F7** S. 94(4B)(a) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 90(2)**
- F8** Words in s. 94(4B)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 90(3)**
- F9** Words in s. 94(4B)(c) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 90(4)**
- F10** S. 94(5A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 3(6)**; S.I. 1997/1305, **art. 2**
- F11** S. 94(6) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, **art. 4** and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), **Sch. 1 para. 3**; S.I. 1992/2979, art. 4, **Sch. Pt. II**; S.I. 1992/3261, art. 3, **Sch.**

Modifications etc. (not altering text)

- C1** S. 94 restricted (1.6.1997) by 1994 c. 9, **s. 12A** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**

Status:

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